

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

versus

JANIS FOWLER-GULDE ET. AL.

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CRIMINAL NO. 4:18-CR-713

**DEFENDANTS' THIRD UNOPPOSED JOINT MOTION FOR CONTINUANCE AND
REQUEST FOR COUNSEL DETERMINATION HEARING**

TO THE HONORABLE JUDGE ANDREW HANEN:

Comes now, **JANIS FOWLER-GULDE** and **JONATHAN GULDE**, Defendants, by and through their attorneys of record, Wendell Odom and Brian Hobson, and hereby request this honorable Court consider the merits of this motion and, in turn, grant this motion based upon the following:

I

The above styled and numbered cause is set for jury trial on August 5, 2019. Pre-trial conference is scheduled for July 29, 2019.

II

The defendants are charged by indictment in five counts: 1) Conspiracy to Unlawfully Distribute and Dispense a Controlled Substance and 2) four substantive counts of Distribution of a Controlled Substance in violation of 21 U.S.C. § 841 and 18 U.S.C. § 2. Both Defendants have been released while they await trial.

Request for Counsel Determination Hearing

Counsels anticipated this case would be resolved through a plea offer. However, negotiations with the government broke down in early July. Counsels were notified on July 3,

2019, both Defendants had retained new counsel for representation in this Court. This has created a conflict of interest as Defendants have lost trust in undersigned Counsels' representation.

Counsels are requesting a counsel determination hearing with all parties present so the Court can determine representation moving forward. New counsels, Jonathan Meltz and Summer McKievier, filed appearances pro hac vice on July 8, 2019 (Dkt. 50 and 51).

Motion for Continuance

If the Court determines the Defendants will remain with current counsels, we would request a continuance for the following reasons:

1. Leave for Childbirth

Counsel for Jonathan Gulde, Brian Hobson, will be having his first child (daughter) in early August. The due date is currently August 10, 2019. Counsel has been advised by the doctor the child could be born anytime in the last two weeks of pregnancy spanning late July to August 10, 2019. Counsel would like to be present for the birth of his first child and does not wish to disrupt the Court's schedule once trial begins. For that reason, counsel would request a continuance of the trial date.

2. Additional Investigation of Extraneous Offenses

The factual background in this case involves numerous extraneous prescriptions which may be admissible under Federal Rule of Evidence 404(b). There are approximately 20,000 prescriptions at issue written from 2015 to 2018. These prescriptions will need to be reviewed by Counsels to effectively represent the Defendants in trial. Counsels have reviewed many of the prescriptions, but further investigation is still necessary to adequately prepare for trial.

III

Counsels have spoken to the DOJ Trial Attorney in this cause, Devon Helfmeyer, who is not opposed to the filing of this motion. Further, all parties agree that a continuance of sixty (60) to ninety (90) days should be sufficient to allow for adequate preparation and effective representation in trial.

Prayer for Relief

Counsels respectfully request a counsel determination hearing to determine representation moving forward. If this Court denies substitution of counsels, the Defendants respectfully request this Court grant a continuance for the aforementioned reasons and would show that the ends of justice would best be served by the granting of such continuance. The granting of such continuance outweighs the best interest of the public and the defendants to a speedy trial pursuant to Title 18 U.S.C., § 3161(h)(7)(A); and furthermore, such period of delay due to a continuance would be excludable as a failure to grant such continuance would deny counsel for the Defendants the reasonable time necessary for effective preparation taking into account the exercise of due diligence pursuant to 18 U.S.C. § 3161(h)(7)(B)(iv).

This motion is made in the interest of justice and not for the purposes of delay.

WHEREFORE, PREMISES CONSIDERED, Defendants pray this Court hold a hearing to determine counsel, and if substitution is denied, grant this motion and in the interest of justice continue this cause for sixty (60) to ninety (90) days so the Defendants may receive a fair trial, and for such further relief, general or special, at law or in equity, to which they may show themselves justly entitled.

Respectfully submitted,

/s/ Wendell Odom, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Unopposed Joint Motion for Continuance and Request for Counsel Determination Hearing** was delivered by electronic mail to the following parties on July 9, 2019.

Devon Helfmeyer
DOJ Trial Attorney

Summer McKiever
Appearing Pro Hac Vice – Jonathan Gulde

Jonathan Meltz
Appearing Pro Hac Vice – Janis Fowler-Gulde

/s/ Wendell Odom, Jr.
WENDELL ODOM, JR.

/s/ Brian Hobson
BRIAN T. HOBSON

CERTIFICATE OF CONFERENCE

Counsel spoke to the DOJ Trial Attorney in this cause, Devon Helfmeyer, on July 8, 2019, and he is not opposed to the filing of this motion.

/s/ Wendell Odom, Jr.
WENDELL ODOM, JR.

/s/ Brian Hobson
BRIAN T. HOBSON